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10/043,277	01/14/2002	Karl-Heinz Baumann	225/50754	4705

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EXAMINER

ROSENBERG, LAURA B

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3616

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/043,277
Filing Date: January 14, 2002
Appellant(s): BAUMANN ET AL.

Song Zhu, Ph.D.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11 January 2005.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct. However, the examiner notes that the amendment after final, submitted on 04 May 2004, was only to be entered in the event of an appeal.

(5) *Summary of Claimed Subject Matter*

The summary of claimed subject matter contained in the brief is correct.

(6) *Grounds of Rejection to be reviewed on appeal*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 39, 42, 58, and 61 are rejected under 35 U.S.C. 102(b). This rejection is set forth in a prior Office Action, mailed on 12 February 2004. Since these claims have been amended, the examiner is including a more updated version of the rejection.

Claims 39, 42, 58, and 61 are rejected under 35 U.S.C. 102(b) as being anticipated by Simonetti (US 5,813,288). Simonetti discloses a vehicle frame comprising lightweight panels (#24; others not shown) having an opening (#22) and a vehicle device (#30) insertable into the opening so as to cover the opening completely (best seen in figures 1, 2), the vehicle device including a support arrangement (#30, 46) that is engageable with an edge of the opening in the lightweight panel to limit insertion of the vehicle device in the opening (best seen in figures 2, 11). The vehicle device is steering console and an insertion module for a windshield wiper assembly (column 2, lines 18-27).

(7) Response to Argument

In regards to pages 4-5 and 8 and the Simonetti reference, the examiner refers to the Advisory Action, dated 24 June 2004, in which the examiner pointed out that while an opening in the panel is referred to by reference character "22", the edge of the opening that is able to engage with the support device is the inner wall (#42) of the boot (#40; best seen in figure 11). The boot (#40) seals the space between the vehicle device and steering column and the opening (column 2, lines 30-34). Thus, while the opening (#22) begins at one part of the vehicle panel, the opening continues through the boot, at which point it is defined by the boot wall (#42).

In regards to the middle of page 5, the boot (#40) is able to limit insertion of the vehicle device (#30) in the opening (#22) due to the ability of the support arrangement (#30, 46) to engage an edge (inner wall #42) of the opening (best seen in figure 11).

In regards to pages 5-6, figure 11 clearly shows the manner in which the inner wall (#42) is able to limit insertion of the vehicle device (#30) in the opening.

In regards to the middle of page 6 and page 10, phrases such as "insertable into the opening", "engageable with an edge", and "to limit the insertion of the vehicle device" lead to the intended use of the apparatus. The prior art reference used in the rejection should have the ability to perform this function, but this function does not have to be specifically disclosed in the reference. This is not being used as the basis for a new rejection, but rather was pointed out for the benefit of the appellants.

In regards to the bottom of page 6, the size of the opening in the vehicle panel, and the direction in which the edge limits insertion of the vehicle device are not parts of the appellants' claimed invention.

In regards to page 7, the vehicle device (#30) does indeed cover the opening (within #22, and further defined by boot #40). Further, the support arrangement (#30, 46) is able to engage an edge (inner wall #42) of the opening (within #22 and further defined by boot #40) to limit the insertion of the vehicle device in the opening.

In regards to the middle of page 8, while the direction in which the vehicle device is limited is not part of the appellants' claimed invention, the examiner notes that the inner wall (#42) of the boot (#40) could limit insertion of the vehicle device in a right-to-

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left direction, as seen in figure 11, regardless of the material with which the boot is made from.

In regards to page 9, the examiner has in no way asserted that the boot (#40) is a lightweight panel, and she has not used this as a basis for any of her rejections. However, as broadly interpreted, the boot could be a "lightweight panel", since it is a panel and is lighter in weight than most other components of the vehicle.

(8) Claims Appendix



The copy of the appealed claims contained in the Appendix to the brief is correct.


For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Laura B Rosenberg
Patent Examiner
Art Unit 3616

LBR
March 29, 2005

Conferees
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